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In re Application of
SMITH, Larry W.
Application No. 10/749,517
Filed: January 2, 2004
Attorney Docket No. 19316.0002U1

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 30, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 9, 2007.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the Application No. 12/218,705. As continuity has been established by revival of this application, this application is again abandoned in favor of continuing Application No. 12/218,705, filed August 30, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.


Brian W. Brown
Petitions Examiner
Office of Petitions